

CALIFORNIA COASTAL COMMISSION

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 Commission Action: April 27, 2008
 Staff: G. Cannon-SD
 Staff Report: February 20, 2008
 Hearing Date: March 5-7, 2008

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-07-90

Applicant: Ashley and Edward Chu Agent: Jack Smyer Architects

Description: Construct 2,310 sq. ft. first and second story addition to 4,180 sq. ft. home and new 1-story detached 991 sq. ft guest house to include new access road, 2 parking spaces, landscaping, and septic tank system on 3.38 acres. Project also involves a request to perform brush management within an existing deed restricted area.

Lot Area	147,276 sq. ft. (3.38 acres)
Building Coverage	5,334 sq. ft. (3%)
Pavement Coverage	15,692 sq. ft. (11%)
Landscape Coverage	7422 sq. ft. (5%)
Unimproved Area	118,858 sq. ft. (81%)
Parking Spaces	2
Zoning	RR35
Plan Designation	Rural Residential
Ht abv fin grade	24.5 feet

Site: 4807 Linea Del Cielo, Rancho Santa Fe, San Diego County.
 APN 268-230-24

Substantive File Documents: County of San Diego Local Coastal Plan; Coastal Development Permit #6-88-415/Slotkin: "Biological Letter Report" by Vincent N. Scheidt dated December 17, 2007.

The standard of review for the subject development is the Chapter 3 Policies of the Coastal Act.

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending approval of the proposed residential addition and guesthouse with conditions. The primary issue involved with this project involves brush management that is proposed within a deed restricted open space area. However, the applicant has documented that necessary brush management for fire safety for the proposed improvements would be no more than currently required by the fire department for the existing home and barn structure. In addition, the Commission's staff ecologist has reviewed the project and determined that the vegetation proposed to be removed to address fire safety is not ESHA. The Special Conditions require submission of a final brush management plan, a landscape plan that requires the use of drought-tolerant, fire resistant, native and non-invasive species, a run-off control plan and a requirement that all future development on site be reviewed by the Coastal Commission. A deed restriction identifying all conditions of approval is also required to assure all future property owners are aware of these conditions. As conditioned, the proposed development will not have adverse impacts to coastal resources.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-07-90 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Landscaping Plan. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and written approval of the Executive Director, a final landscaping plan approved by the Rancho Santa Fe Fire Department and County of San Diego. Said plan shall include the following:

- a. All proposed landscaping shall be drought-tolerant, native, fire resistant, non-invasive plant species that are obtained from local stock, if available. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized.
- b. A planting schedule that indicates that the planting plan shall be implemented within 60 days of completion of residential construction.
- c. A written commitment by the applicant that all required plantings shall be maintained in good growing conditions, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape screening requirements.
- d. The use of rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) is prohibited.
- e. Five years from the date of issuance of the coastal development permit, the applicant shall submit for review and written approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and written

approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. Final Brush Management Plans. **PRIOR TO THE ISSUANCE OF COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, a final brush management plan consistent with the areas identified on Page A001 of the project plans dated June 15, 2007 by Smyer Architects and as described in the letter from the Rancho Santa Fe Fire Dept. dated December 24, 2007. Said plans shall be approved by the Rancho Santa Fe Fire Department and shall include the following:

- (a). The property owner shall be responsible for at least annual maintenance within the designated 100 ft. brush management area to remove any introduced non-native or invasive plant species.

The permittee shall undertake development in accordance with the approved plans. Any proposed changes to the approved brush management plan should be reported to the Executive Director. No changes to the approved plans shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. Drainage Plan. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, a drainage and runoff control plan approved by the County of San Diego documenting that the runoff from the roof, driveway and other impervious surfaces will be collected and directed into pervious areas on the site (landscaped areas) for infiltration and/or percolation prior to being discharged off site in a non-erosive manner.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. Future Development Restriction. This permit is only for the development described in coastal development permit No. 6-07-90. Pursuant to Title 14 California Code of Regulations section 13250(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(a) shall not apply to the development governed by coastal

development permit No. 6-07-90. Accordingly, any future improvements to the single family house authorized by this permit, shall require an amendment to Permit No. 6-07-90 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

5. Deed Restriction. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/Permit History. The proposed project involves a 2,315 sq. ft. addition to an existing 4,180 sq. ft. one-story single-family residence, the demolition of an existing 400 sq. ft. detached barn and construction of a 991 sq. ft. detached guesthouse to include a new access road, 2 parking spaces, and septic tank system on an approximately 3.38 acre site. The project also includes a request to perform brush management around the existing residence and proposed structures pursuant to the requirements of the Rancho Santa Fe Fire Department. Portions of the brush management will occur within two open space deed restricted areas that were established as a condition of approval of Coastal Development Permit #6-88-415 for the existing home's construction.

In 1988, the Commission approved the construction of the existing residence and barn on the approximately 3.38 acre site (Ref. CDP#6-88-415/Slotkin) with a condition requiring all onsite "naturally vegetated slopes in excess of 25% grade" be protected through the application of a deed restricted open space. The deed restriction, among other things, prohibits the "removal of vegetation" without the written approval of the Coastal Commission or its successor in interest. No allowance was made for brush management even though some of the deed restricted area was located immediately adjacent to the approved residence.

The project site is located at 4807 Linea Del Cielo near the east end of Lomas Santa Fe Drive, west of El Camino Real in the Rancho Santa Fe community of the County of San Diego. The property is approximately 3 miles inland of the shoreline and 1 ½ miles from San Elijo Lagoon to the north and San Dieguito Lagoon to the south within the unincorporated area of the County of San Diego. The standard of review for the subject development is the Chapter 3 Policies of the Coastal Act.

2. Resource Protection. Section 30240 of the Coastal Act is most applicable to this proposed development and states, in part:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas. . . .

The project site consists of the existing residence and detached barn located on a 3.38 acre site. Except for the building pad area of the existing home and detached barn, most of the site contains steep slopes that are vegetated predominantly with Eucalyptus trees. Properties surrounding the subject site contain large estate sized homes that generally appear to be landscaped with non-native, ornamental plants. The north side of the subject property is bordered by a lot that contains a fruit orchard consisting of several hundred trees.

In approving the home's original construction in 1988, the Commission identified that the property contained "naturally vegetated slopes in excess of 25% grade." At the time of approval of the existing home, the site was subject to the Coastal Resource Protection (CRP) Overlay Zone of the San Diego County LCP. In 1988, the CRP Overlay regulated the development of naturally vegetated steep slopes which were defined as those exceeding 25% grade. The CRP Overlay did not explicitly protect Environmentally Sensitive Habitat Areas (ESHA), but rather emphasized protection of "naturally" vegetated steep slopes. In that respect, in approving the home, the Commission identified that the residence and barn would be located on previously graded areas with no impacts to the naturally vegetated steep slope areas. However, in approving the home, the Commission required that all naturally vegetated steep slopes be deed restricted as open space to restrict their future development consistent with the requirements of the CRP. The deed restriction prohibited "any alteration of landforms, removal of vegetation or the erection of structures of any type without the written approval of the Coastal Commission or successor in interest, . . .". No allowance was made for brush management for fire protection and, therefore, in order to perform brush management involving the "removal of vegetation" within the deed restricted areas, the applicant must receive approval of the Coastal Commission.

The CRP Overlay Zone and the San Diego County LCP requirements no longer apply to the subject development site. Following incorporation of the Cities of Encinitas and Solana Beach, the County of San Diego LCP was never effectively accepted or implemented by the County in the remaining limited County areas of the Coastal Zone and, therefore, the standard of review for the subject development is the Chapter 3 Policies of the Coastal Act. In this case, the development raises a concern as to whether

the natural vegetation within the deed restricted open space or elsewhere on the site is considered ESHA and whether the proposed development could adversely impact ESHA, which would be inconsistent with Section 30240 of the Coastal Act.

The applicant has submitted a biological assessment of the site which determined that in the deed restricted open space that lies between the existing home and the barn, approximately 0.07 acres of Southern Maritime Chapparral (SMC) will be impacted from the proposed brush management (Ref. "Biology Letter Report" by Vincent N. Schmidt dated December 17, 2007). The biology assessment describes this 0.07 acre area as "highly disturbed" with "very little limb structure". In addition, the letter further notes that "[i]n many areas the SMC is heavily infused with Hottentot fig and Eucalyptus leaf litter." The other brush management impact areas are described as being "Eucalyptus woodlands". The Commission's staff ecologist has reviewed the applicant's biological assessment as well as photographs of the site and surrounding area and has concluded that this small patch of SMC is not ESHA because it is isolated, fragmented and the rare plants that are often associated with SMC are not present. In addition, he has identified that the patch is surrounded by residential development, eucalyptus woodland and a planted grove of fruit trees. In addition, nearly the entire SMC area is within Brush Management Zone 2 of the existing house and barn which requires that 50% of existing vegetation be thinned and all dead and dying vegetation be removed. Thus, the proposed addition and guesthouse will not result in any significant additional brush management within the deed restricted area over what needs to occur for the existing home and barn.

As described above, the subject development site, including the deed restricted open space areas, have been determined to not contain ESHA. The Rancho Santa Fe Fire Department has determined that to meet fire safety requirements, only fire-resistant, native and irrigated vegetation may be present within Brush Management Zone 1 (first 50 ft. from the structures). Within Brush Management Zone 2 (50-100 ft. from the structures), the Fire Department has determined that 50% of the area must be thinned and all dead and dying vegetation must be removed. Special Condition #2 requires the applicant to implement the brush management requirements consistent with the Fire Department's standards and Special Condition #1 requires that all landscaping within the entire brush management zone be limited to fire-resistant, drought-tolerant, native and non-invasive species. In addition, Special Condition #2 requires the property owner to maintain the brush management area and avoid introduction of non-native or invasive species that may increase the fuel load. These conditions will assure that adverse impacts to any nearby ESHA locations are minimized to the maximum extent possible. While the subject site does not contain ESHA, the project site is located approximately ¼ mile east of San Dieguito County Park, a 125 acre multi-purpose park that includes ball fields, basketball courts, grassy picnic areas and hiking trails through native habitat that is likely ESHA. In addition, all runoff from the subject site eventually makes its way into San Dieguito Lagoon which contains ESHA and is located approximately 1 ½ miles to the south. Therefore, with conditions to plant only native, non-invasive species with any new landscaping and to maintain the brush management areas so as to avoid the introduction of non-native or invasive species, the proposed development will not have an adverse impact on these nearby ESHA locations.

In addition, future development proposals on the 3.38 acre site could result in additional brush management or grading within the deed restricted open space areas. To assure that any future development of the site does not impact these open space areas, Special Condition #4 has been attached which provides that any future development of the site will require an additional coastal development permit or amendment to the subject permit. In this way, the Commission can be assured that any potential adverse impacts from future development can be addressed through additional Commission review.

Finally, Special Condition #5 requires the applicant to record a deed restriction imposing the conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. This restriction will serve to notify future owners of the terms and conditions of the permit such as the brush management and landscaping requirements.

In summary, brush management is being required in conjunction with both the existing home and the proposed new development, however, no ESHA will be impacted. Since some of brush management area is within existing deed restricted open space areas that does not allow any removal of vegetation without approval of the Coastal Commission, the applicant has proposed the subject request to do minimal brush management activities within the open space areas. With conditions to assure the use of only native, non-invasive species in new landscaping or within the brush management zones, the Commission finds the proposed amendment consistent with Section 30240 of the Coastal Act.

3. Visual Resources/Community Character. Section 30251 of the Coastal Act states, in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas...

The project site is located in a developed area in the County of San Diego, east of the City of Solana Beach and Interstate 5. The site is not visible from any scenic area and no public views will be blocked by the development. The project site is located within an established residential neighborhood and the proposed residential addition and new guesthouse will be consistent with the bulk and scale of the surrounding development. Given that no impacts to any coastal resources will result from the proposed development and that the development will be compatible with the surrounding area, the Commission finds the proposed project consistent with Sections 30251 of the Act.

4. Runoff/Water Quality. Sections 30231 and 30240 of the Coastal Act require that the biological productivity of coastal waters be maintained by, among other means, controlling runoff and state, in part, that:

Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrapment, controlling runoff,

Although the proposed project will not impact ESHA onsite because none exists, all runoff from the development site will eventually reach the waters of San Dieguito Lagoon located approximately 1½ miles to the south. In order to reduce the potential for adverse impacts to water quality resulting from drainage runoff from the proposed development, Special Condition Nos. 1 and 3 have been attached. Special Condition #1 requires the maintenance of existing drought tolerant, native landscaping on the site. Special Condition #3 requires that runoff from the roof, driveway and other impervious surfaces be directed into the landscaped areas on the site for infiltration and/or percolation, prior to being collected and conveyed off-site. Directing on-site runoff through landscaping for filtration of on-site runoff in this fashion is a well-established Best Management Practice for treating runoff from small developments such as the subject proposal. As conditioned, the landscape and drainage plans will serve to reduce any impacts to water quality from the project to insignificant levels. Therefore, the Commission finds the proposed project consistent with Sections 30231 and 30240 of the Coastal Act.

5. Local Coastal Planning. Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

The subject site is within the unincorporated area of the County of San Diego. Although a LUP and IP were conditionally certified by the Coastal Commission in the 1980's, effective certification and a transfer of permit authority never occurred. Therefore, the Coastal Act remains the legal standard of review. As conditioned, the project is consistent with all cited Coastal Act policies. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the ability of the County of San Diego to create a fully-certifiable LCP.

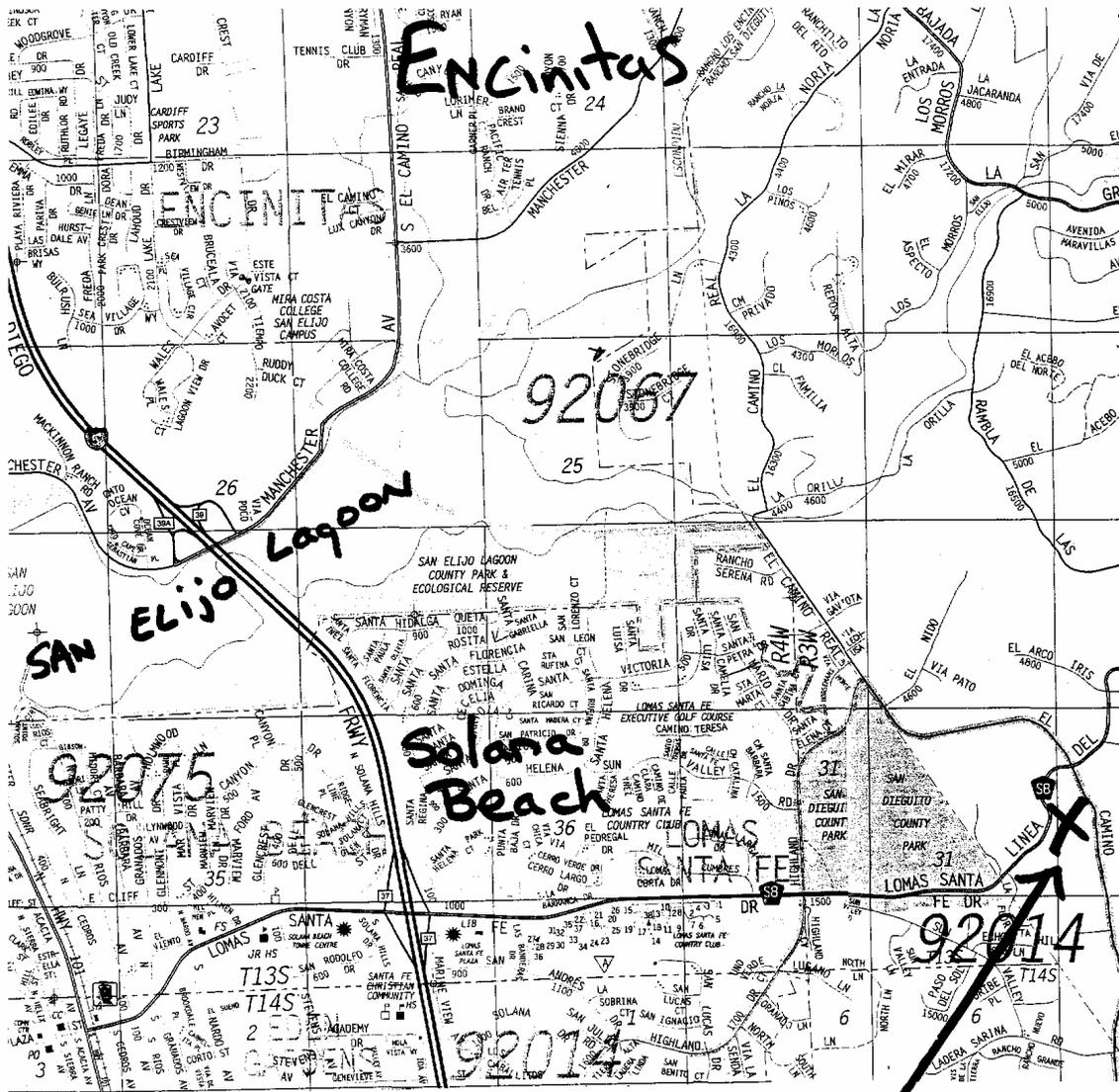
6. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures

available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing the brush management program and landscaping, will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

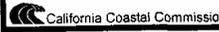
STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.



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SITE

EXHIBIT NO. 1
APPLICATION NO.
6-07-90
Location Map
 California Coastal Commission

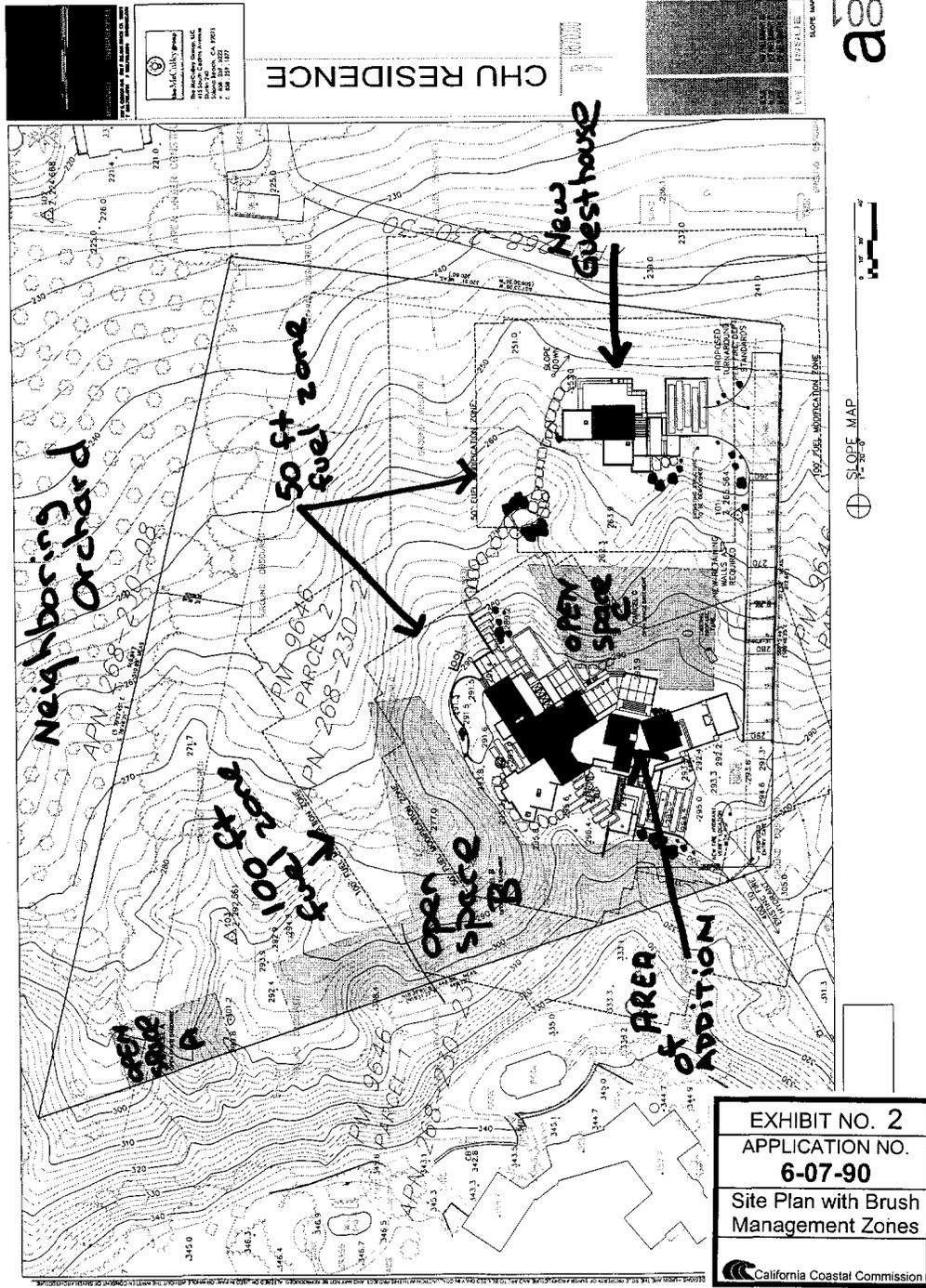


EXHIBIT NO. 2
APPLICATION NO.
6-07-90
Site Plan with Brush
Management Zones

California Coastal Commission